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In re Application of	:	
SHATTIL, Steven	:	DECISION ON MERGING
U.S. Application No.: 09/381,588 and 09/601,922	:	APPLICATION FILES AND
PCT No.: PCT/US99/02838	:	REQUEST FOR REFUND
Int. Filing Date: 10 February 1999	:	
Priority Date: 12 February 1998	:	
Attorney's Docket No.: 022950 PCTUS	:	
For: MULTIPLE ACCESS METHOD AND SYSTEM	:	

This is a decision on applicant's "Request for Refund" filed in the Patent and Trademark Office (PTO) on 02 February 2001.

DISCUSSION

On 10 February 1999, applicants filed international application PCT/US99/02838 which designated the United States. On 19 August 1999, a copy of the international application was communicated to the PTO by the International Bureau ("IB").

On 31 August 1999, a Demand was filed with the International Preliminary Examining Authority electing the United States. The election was made prior to the expiration of nineteen months from the international filing date. As a result, the deadline for payment of the basic national fee was extended to expire thirty months from the international filing date, i.e., 12 August 2000.

On 20 September 1999, applicant filed "Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Filing Under 35 U.S.C. 371," which indicated that the filing was intended as a national stage filing of PCT/US99/02838 pursuant to 35 U.S.C. 371. This Transmittal Letter was accompanied by: a check in the amount of \$627 (\$420 as the basic national fee and \$207 for inclusion of extra claims); a small entity statement; a preliminary amendment; and an executed declaration. This submission was assigned application number 09/381,588.

On 02 November 1999, a Notification Of Acceptance Of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903) identifying the 35 U.S.C. 371(c) date as 20 September 1999 was mailed.

On 09 August 2000, counsel filed a "Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Filing Under 35 U.S.C. 371," which indicated that it too was intended as a national stage filing of PCT/US99/02838. This Transmittal Letter was accompanied by: a check in the amount of \$960 (\$485 for the basic national fee, \$279 for inclusion of total claims, \$156 for inclusion of independent claims and \$40 fee for recording an assignment); a preliminary amendment; a small entity statement; and an executed declaration and power of attorney. The submission was assigned application number 09/601,922.

Counsel in application number 09/601,922 subsequently submitted a "Request for Refund" on 02 February 2001.

DISCUSSION

As is evident from the above recited facts, two sets of papers to enter the national stage have been submitted for international application number PCT/US99/02838 (United States application numbers 09/381,588 and 09/601,922). The end result for an international application designating the United States of America is a single United States national stage application. Therefore, the submission of two sets of national stage papers was improper.

As noted above, application number 09/381,588 has fulfilled the requirements of 35 U.S.C. 371 and "A Notification Of Acceptance Of Application Under 35 U.S.C. 371" (Form PCT/DO/EO/903) has been mailed in this application. Accordingly, application number 09/381,588 will be treated as the United States national stage application file for international application PCT/US99/02838.

CONCLUSION

The request for refund is **GRANTED**

The papers filed in application number 09/601,922 will be placed in the file of application no. 09/381,588. Applicant should only refer to application no. "09/381,588" in all future communications, as application no. 09/601,922 will no longer be an active file.

All future communication will be sent to Carol W. Burton, HOGAN & HARTSON, 1200 Seventeenth Street, Suite 1500, Denver, Colorado 80202, in view of the Power of Attorney filed on 09 August 2000 in application no. 09/601,922.

This application is being forwarded to the United States Designated/Elected Office (DO/EO) for processing in accordance with this decision, that is for: (1) removing the papers from application no. 09/601,922 and placing such papers into the file of application no. 09/381,588; (2) correcting PALM database; (3) and refunding applicant the filing fees paid in application on. 09/601,922.

Thereafter, this application will then be returned to Group Art Unit 2634 for further prosecution including processing the preliminary amendment filed on 09 August 2000 in 09/601,922, which adds claims 44-94 (it is noted that the preliminary amendment filed 19 May 2000 in application no. 09/381,588 adding claims 44-94 is unsigned and thus should not entered).



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